

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

J.B.D.L. Corp. d/b/a
BECKETT APOTHECARY, et al.

Plaintiffs,

v.

WYETH-AYERST LABORATORIES, INC.,
et al.,

Defendants.

CVS MERIDIAN INC. and RITE AID CORPORATION)	Civil Action No. C-1-03-781
)	
Plaintiffs,)	Judge Sandra S. Beckwith
)	Magistrate Judge Timothy S. Hogan
)	
v.)	
)	
WYETH,)	
Defendant.)	

JOINT MOTION TO MODIFY CALENDAR ORDER

Plaintiff J.B.D.L. Corporation on behalf of the Direct Purchaser Class Plaintiffs, and opt-out Plaintiffs CVS Meridian, Inc. and Rite Aid Corporation, jointly move with Defendant for a modification of the Summary Judgment briefing deadlines set by Judge Beckwith's Notation Order entered in the J.B.D.L. case (Case No. 01-704) on August 10, 2004.

MEMORANDUM IN SUPPORT

Defendant filed the same Motion for Summary Judgment in the above-captioned related cases on November 22, 2004 (Case No. 01-704, Doc. # 135). Direct Purchaser Class Plaintiff J.B.D.L. Corporation and opt-out Plaintiffs CVS Meridian, Inc. and Rite Aid Corporation cannot complete their briefing in opposition to that motion in the time set forth in this Court's Notation Order dated August 10, 2004, and request extensions from January 10, 2005 to January 21, 2005 to file their opposition briefs. These parties also seek a corresponding extension for Defendant and request that it be granted until February 25, 2005 to file its Replies to the opposition briefs. The requested extensions do not affect the pretrial conference date (July 8, 2005) or trial date (August 1, 2005) set in the J.B.D.L. class action.¹

Accordingly, these parties jointly move the Court to extend the summary judgment briefing schedule as follows:

1. Plaintiffs J.B.D.L. Corporation, CVS Meridian, Inc, and Rite Aid Corporation shall file their Summary Judgment Opposition briefs and serve the same upon defense counsel by hand delivery or by overnight mail for receipt no later than 5pm on **January 21, 2005**; and

2. Defendant shall file its Replies to the opposition briefs and serve the same upon Plaintiffs' co-lead counsel in the class action, and upon counsel for Plaintiffs CVS and Rite Aid, by hand delivery or by overnight mail for receipt no later than 5pm on **February 25, 2005**.

¹ CVS and Rite Aid opted out of the J.B.D.L. class action but have conferred and coordinated with class counsel in all pretrial matters. CVS and Rite Aid's motion to amend the class action Case Management Order (Case No. 03-781, Doc. #14) remains pending. No separate pretrial or trial dates have been set in the CVS/Rite Aid case.

Respectfully submitted,

s/Theresa L. Groh
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**Local Counsel for Plaintiffs CVS Meridian, Inc.
and Rite Aid Corporation**

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who are currently on the list to receive e-mail notices for this case.

s/Theresa L. Groh
Theresa L. Groh